

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TOM M. FRANKS,

Plaintiff,

v.

JOHNSON, *et al.*,

Defendants.

Case No. 1:20-cv-00551-DAD-BAM (PC)

Appeal No. 20-17497

**ORDER REGARDING *IN FORMA PAUPERIS*
STATUS ON APPEAL**

Plaintiff Tom M. Franks (“Plaintiff”), a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983. On December 1, 2020, the Court dismissed this action due to Plaintiff’s failure to state a claim upon which relief may be granted. (ECF No. 18.) Judgment was entered accordingly the same date. (ECF No. 19.) On December 28, 2020, following an extension of time, Plaintiff filed a notice of appeal. (ECF No. 22.)

On January 5, 2021, the Ninth Circuit Court of Appeals referred the matter back to this Court for the limited purpose of determining whether *in forma pauperis* status should continue for the appeal. 28 U.S.C. § 1915(a)(3). The Court finds that this appeal is not taken in bad faith and is not frivolous. Accordingly, *in forma pauperis* status should not be revoked and should continue on appeal.
IT IS SO ORDERED.

Dated: January 11, 2021

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE